IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1169 OF 2007
WITH
CIVIL APPLICATION NO.566 OF 2007
IN
WRIT PETITION NO.1169 OF 2007

Sugra Noormohammed Shaikh & Ors. .. Petitioners.
Vs.
Jamaluddin Punwasi & Anr. .. Respondents.

Ms.Geeta Shastri a/w Mr.R.D.Misra for the petitioners.

CORAM : D.B.BHOSALE, J.
DATED : 5TH JULY, 2007.

P.C.:

. Heard learned counsel for the petitioners.

2. This petition is filed against the judgment and order dated 19.12.2006 by which Interim Notice No.5909/2003 in appeal No.621 of 2002 in Misc. Notice No.149 of 2000 in L.E.& C.Suit No.74/91 of 1977 has been discharged. Mrs.Shastri, learned counsel for the petitioners challenged the judgments on two grounds, firstly, the suit property was declared as slum and in view of the specific bar contained under the provisions of Maharashtra Slum Areas (Improvement, Clearance and Re-development) Act, 1971 (for short "the said Act") the decree is nullity and such objection regarding invalidity of

such decree can be raised at any later stage including the stage of execution of the decree or in any other collateral proceedings. Secondly, she submitted that a rent receipt was produced on record by the petitioner of the year 1986 which clearly shows the name of the petitioner and the plaintiff which clearly establish the fact that he was protected tenant in the suit premises.

3. Ms.Shastri, learned counsel for the petitioners in support of her first contention placed reliance upon the notication issued under section 4(1) of the said Act. I perused the notification. The description of the property given in the notification, except a name of the chawl, does not tally with the description of the suit premises given in the plaint. This ground of challenge has been raised for the first time in this proceedings. There is no evidence on record to show that the suit premises is covered by the notification dated 21.10.1978. In view thereof the first submission is rejected. The judgment in **Sarwan Kumar and Anr. Vs. Madan Lal Aggarwal (2003) 4 SCC 147** relied upon by Ms.Shastri in support of her first contention is of no avail to the petitioner. Insofar as the second submission is concerned, it was raised before the court below and the court below in paragraphs 24 and

25 of the judgment has considered it in proper perspective and I find no fault with the findings of fact recorded in respect thereof. The petitioner has not produced any cogent evidence to hold that by undue influence or advantage the plaintiff had transferred the rent receipt in his name. It may also be noticed that the decree has already been executed in 2000. Keeping that in view and considering that there are concurrent findings recorded by the courts below and as I find sufficient material on record to sustain those findings and considering extremely limited jurisdiction of this court under Article 227 of the Constitution of India this writ petition fails and is dismissed as such. Conseqeuntly, the civil application is also disposed of.

(D.B.BHOSALE, J.)